

## REMARKS

The Office Action of December 31, 2007 (hereinafter "Office Action"), rejected Claims 1-7, 13, 22-89 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,397,199 to Goodwin III (hereinafter "Goodwin") in view of U.S. Patent No. 7,177,825 to Borders et al. (hereinafter "Borders"). Claims 8-12 and 14-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Borders, Goodwin, and U.S. Patent Application No. 2002/0173996 to Murch et al. (hereinafter "Murch").

With this response, Claims 1-89 remain pending in the application.

In view of the amendments to the claims and the arguments set forth below, applicants respectfully traverse the rejections of Claim 1-89 and request reconsideration and allowance of the claims.

### Brief Description of Goodwin

Goodwin is directed to a system and a method of altering transaction terms by examining inventory levels and changing transaction terms that differ when compared against predetermined threshold levels. According to Goodwin, the management software in the system compares the current inventory level of a given item against a threshold level of that same item. If the current inventory level of that item is within the threshold range, then the management software continues examining the other inventory levels. If, however, the current inventory level is outside of the threshold range, the transaction management software changes or updates the database to reflect the new inventory level of the current item under examination. If the inventory level is changed, a message will also be sent to display the new price (or transaction term) on a screen or other display in the computer system.

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Although Goodwin discloses an inventory management system, Goodwin lacks the three-level hierarchy as well as the particular records/information defined by each level, and where some records are further defined by dates, of the claimed subject matter.

#### Brief Description of Borders

Applicants note that the Office Action makes reference to "Roberts" on pages 3 and 6. It appears as though the references to "Roberts" were a substitution mistake and should be interpreted as references to Borders.

Borders purportedly discloses an electronic commerce system for receiving and fulfilling customer orders, and particularly fulfilling orders such that a delivery date/time can be guaranteed.

One aspect of Borders is in regard to storing items of inventory. Borders discloses that items of inventory may be sorted into three distinct groups, depending on their storage needs, e.g., ambient room temperature, chilled, and frozen. However, while Borders discloses categories for storing inventory items, Borders fails to disclose inventory information organized in three levels of hierarchical data particularly as recited in the independent claims of the present application.

#### 35 U.S.C. § 103(a) Rejections over Goodwin and Borders

Claims 1-7, 13, 22-25, and 26-89 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Goodwin in view of Borders. For the reasons set forth below, applicants respectfully traverse the rejections and request reconsideration and allowance.

#### Claim 1

As amended, Claim 1 reads as follows:

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1. A method implemented in a computer device for processing an available inventory item query corresponding to inventory items defined by inventory information, the method comprising:

storing a set of available inventory information **according to a three level hierarchy, wherein the three level hierarchy includes:**

at least one group record defining a first level of detail for inventory information, **wherein the first level of detail of each group record comprises information common to all item category records and inventory records below the group record in the hierarchy;**

a set of item category records defining a second level of detail that is associated to a referenced group record and corresponds to types of inventory items for the referenced group, **wherein the second level of detail of each item category record comprises information common to all inventory records below the item category record in the hierarchy;**

inventory records defining a third level of detail corresponding to instances of inventory item types referenced by at least two of the set of item category records, **wherein the third level of detail of each inventory record in the hierarchy describes distinct instances of inventory items than that of another inventory record;**

obtaining, by the computer device, an available inventory query, the query including a set of criteria;

determining at least one inventory item matching the query criteria; and

transmitting matching group record, item category record, and inventory record data for the matching inventory item. (Emphasis added.)

Applicants submit that Goodwin and Borders, alone and in combination, fail to disclose "storing a set of available inventory information according to a three level hierarchy," and particularly three levels as recited and highlighted above in Claim 1. Indeed, the Office Action acknowledges that Goodwin fails to disclose storing inventory information in three levels. (Office Action, pg. 3). Moreover, Borders discloses categorizing inventory items according to their storage requirements. Whether a particular category for an inventory item can be construed as three sets of inventory information (which applicants expressly deny), applicants note that this

category information is not a "three level hierarchy," as recited in Claim 1, and does not comply with the particular data recited for each level.

In view of the above, applicants submit that Goodwin and Borders fail to disclose each element of Claim 1. As the cited references fail to disclose all elements of Claim 1, a *prima facie* case of obviousness cannot be made. Accordingly, applicants request that the 35 U.S.C. § 103(a) rejection be withdrawn and the claim allowed.

Claims 2-7, 13, and 22-25

Claims 2-7, 13, and 22-25 each depend from independent Claim 1. When read in combination with Claim 1 and for the reasons discussed above, applicants submit that Goodwin and Borders, alone and in combination, fail to disclose each and every element of these dependent claims. Accordingly, applicants request that the 35 U.S.C. § 103(a) rejections be withdrawn and the claims allowed.

35 U.S.C. § 103(a) Rejections in view of Goodwin, Borders, and Murch

Claims 8-12 and 14-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable in view of Borders, Goodwin, and Murch. However, applicants assert that Murch should be disqualified as a reference under 35 U.S.C. § 103(c)(1).

Pursuant to 35 U.S.C. § 103(c)(1):

subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Applicants note that the earliest priority date for Murch, April 12, 2001, prior to the filing date (August 17, 2001) of the present application. However, the publication date for Murch is

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November 21, 2002, after the filing of the present application. Hence, Murch would otherwise qualify as 35 U.S.C. § 102(e) art to the present application.

Applicants further assert that at the time of filing, the present application and Murch were owned by the same person or subject to an obligation of assignment to the same person.

The Office Action expressly admits that Goodwin and Borders fail to disclose the elements of Claims 8-12 and 14-21. Moreover, Murch is disqualified as a prior art reference under 35 U.S.C. § 103(a). Hence, applicants assert that a *prima facie* case of obviousness cannot be made, and request that the 35 U.S.C. § 103(a) rejections be withdrawn and the claims allowed.

#### 35 U.S.C. § 103(a) Rejections of Claims 26-89

The Office Action asserts that Claims 26-89 disclose the same inventive concepts as recited in Claims 1-25 and are, therefore, rejected under the same rationale as Claims 1-7, 13, and 22-25. While differing in scope, applicants note that independent Claims 26, 44, 72, and 82 recite similar elements to those found in Claim 1. In particular, as representative of the various independent claims, Claim 26 recites, *inter alia*:

**storing a set of available inventory information according to a three level hierarchy, wherein the three level hierarchy includes:**

at least one group record defining a first level of detail for inventory information, **wherein the first level of detail of each group record comprises information common to all item category records and inventory records below the group record in the hierarchy;**

a set of item category records defining a second level of detail that is associated to a referenced group record and corresponds to types of inventory items for the referenced group, wherein the second level of detail includes date information associated with the inventory items, and **wherein the second level of detail of each item category record comprises information common to all**

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**inventory records below the item category record in the hierarchy;**

inventory records defining a third level of detail corresponding to instances of inventory item types referenced by the set of item category records, **wherein the third level of detail of each inventory record in the hierarchy describes distinct inventory instances of item types than that of another inventory record.** (Emphasis added.)

As mentioned above, Goodwin fails to disclose a set of inventory information organized "according to a three level hierarchy." Moreover, Goodwin fails to disclose data organized in a hierarchy. Borders, while disclose three categories of information, cannot be said to disclose a hierarchy of information - especially as ambient, chilled, and frozen are mutually exclusive and therefore not hierarchical.

In light of the above, applicants submit that Goodwin and Borders, alone and in combination, fail to disclose each and every element of Claim 26, particularly regarding the hierarchical organization of information and the particular information provided at each level of the hierarchy. Applicants, therefore, submit that the 35 U.S.C. § 103(a) of Claims 26-89 should be withdrawn and the claims allowed.

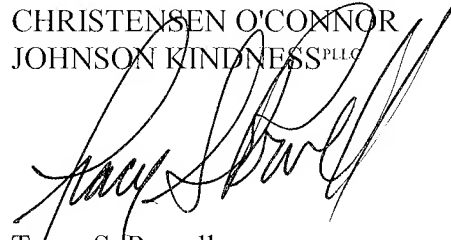
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### CONCLUSION

In light of the above amendments and remarks, applicants submit that the pending are in condition for allowance. Reconsideration and allowance at an early date is requested. In order to more efficiently facilitate the prosecution of this matter, should the Examiner have any questions regarding this matter, the Examiner is invited to contact the applicants' representative at the number below.

Respectfully submitted,

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